

Prior law allowed the Louisiana Real Estate Commission to issue licenses and to provide for registration. New law, in addition, allows the commission to issue certificates.

Existing law allows for issuance to be for a period of one year and renewable annually. Prior law prohibits real estate practice during the period after expiration of a license or registration. New law, in addition, allows for the issuance of certificates for a period of one year and provides for annual renewal. Prohibits conducting any activity authorized by the license, certificate, or registration after expiration.

Prior law allowed associate brokers and salespersons to assign commissions or compensation earned in connection with a real estate transaction to be paid to an unlicensed corporation of which he was the sole officer, director, or shareholder. New law retains prior law and allows the assignment to an unlicensed limited liability company of which the associate broker or salesperson is the sole manager.

Prior law allowed the commission to censure any licensee, registrant, or certificate holder, suspend or revoke any license, registration, or certificate, or impose continuing education requirements if, in the opinion of the commission, a licensee, registrant, or certificate holder was performing the enumerated acts. New law retains prior law and allows the commission to levy fines or impose civil penalties not to exceed \$5,000.

Prior law required the commission before censuring any licensee, registrant, or certificate holder or suspending or revoking any license, registration, or certificate to notify the licensee, registrant, or certificate holder in writing of any charges made at least 20 days prior to the hearing. New law retains prior law and clarifies that notice is satisfied by mailing a copy of the charges by certified mail to the licensee's, registrant's, or certificate holder's address on file with the commission or by commission personnel hand delivering a copy of the charges to the licensee, registrant, or certificate holder.

Existing law provides for a real estate recovery fund for the reimbursement of damages to any person who is adjudged to have suffered monetary damage by reason of any of the enumerated acts committed as part of any real estate transaction by any licensed real estate broker or salesperson and provides that in order for a person to be eligible to seek recovery from the fund certain enumerated conditions must be met including requiring the claimant to have received a final judgment, give notice to the commission prior to the commencement of the action, made the judgment executory with no real property of the debtor being found, made all reasonable searches to find any real property of the debtor, and any amount recovered from the debtor was applied to the damages awarded by the court. New law allows the commission in lieu of meeting all these conditions to allow the aggrieved party to submit a claim to the commission by notarized affidavit giving all the pertinent facts to the claim when the amount of the claim does not exceed \$2,000. Requires such right to recover to be made within 180 days from the effective date of the order issued by the commission pertaining to the claim, including appeals. Requires written approval of the attorney general's office prior to payment of the claim.

New law repeals prior law provisions which required persons exempt from licensure to provide the commission with certain information. New law further repeals prior law provisions regarding corporations, limited liability companies, and partnerships possessing real estate broker's licenses.

Prior law defined "dual agency" as an agency relationship in which a licensee is working with both buyer and seller or landlord and tenant in the same transaction. New law retains prior law and provides that such a relationship does not constitute dual agency if the licensee is the seller of the property that he owns or if the property is owned by the real estate business of which the licensee is the sole proprietor and agent. Provides that dual agency does not exist when the licensee is working with both landlord and tenant as to a lease which does not exceed three years and the licensee is the landlord. Provides that agency disclosure is not required with regard to a lease that does not exceed three years and under which no sale of the property to the lessee is contemplated.

Effective August 15, 1999.

(Amends R.S. 9:3891(10) and R.S. 37:1439(A), 1442(A), 1446(G), 1455(A)(intro. para.), and (9), 1456(A)(1), and 1462; Adds R.S. 9:3893(F) and 3897(G); Repeals R.S. 37:1437(C)(6)(c) and 1437.2(F)-(I))